

Patent
Serial No. 10/531,969
Amendment in Reply to Office Action of April 18, 2006

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated April 18, 2006. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-2 were pending in the Application. Claim 2 is canceled herein, without prejudice. The Applicant respectfully reserves the right to reintroduce subject matter deleted herein, either at a later time during the prosecution of this application or any continuing applications. Claim 3 is added by this amendment. Claims 1 and 3 are independent claims.

In the Office Action, the Examiner provisionally rejected Claims 1-2 under the judicially created doctrine of double patenting as being unpatentable over Claim 2-3 of U.S. Patent Application No. 10/548,250. This provisional rejection is respectfully traversed. It is respectfully submitted that U.S. Patent Application No. 10/548,250 was filed subsequent to the filing of the present patent application, and accordingly the present patent application provides no opportunity to extend the right to exclude provided by U.S. Patent Application No. 10/548,250. Specifically, U.S. Patent Application No. 10/548,250 is a national stage entry (e.g., 371(c) filing) of PCT Patent Application No. PCT/IB2004/000682 (International Publication No. Wo 2004/082148) having an international filing date of March 4, 2004. The present patent application is a national stage entry of PCT Patent Application No. PCT/IB2003/004520 (International Publication No. WO2004/038926) having an international filing date of October 14, 2003. As should be clear from the above, the PCT Patent Application No. PCT/IB2004/000682 was not filed prior to the present patent application and in fact, has an

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expiration date that exceeds the expiration date of the present patent application. In other words, even though the claims may be similar, the present patent application provides no opportunity to extend the "right to exclude" provided by U.S. Patent Application No. 10/548,250. Accordingly, Applicant respectfully requests that this "double patenting" ground for rejection be withdrawn.

In the Final Office Action, claims 1 and 2 are objected to for certain informalities. Claim 2 is canceled herein, without prejudice, obviating the objection regarding claim 2. Claim 3 is submitted in place of claim 2, but is submitted in independent form. Claim 1 is amended to correct the informalities noted by the Examiner. In addition, claim 1 has been amended for better conformance to U.S. practice, such as deleting figure reference designations typically used in European practice that are known to not limit the scope of the claims. Further amendments include removing parenthetical designations as well as correcting other informalities noted upon review of the claims. However, it is believed that the objection contained on page 9, in numbered paragraph 5, namely that "said generating creating a set W" is improper. It is respectfully submitted that the claim as recited states "said generating creating a set W" which is grammatically proper. It is respectfully submitted that "generating" is a verb and the subject of the sentence and "creating" is also a verb that should have the same suffix as the subject. accordingly, it is respectfully submitted that thus objection is improper and an indication to that effect is respectfully requested. It is noted that claim 1 was not amended to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents. Applicant furthermore reserves the right to

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reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications. Accordingly, withdrawal of the objections to claim 1 is respectfully requested.

Claim 1 is rejected under 35 U.S.C. §112, second paragraph as being indefinite due to a lack of antecedence basis for several terms. Claim 1 is amended herein to cure the noted deficiencies. Accordingly, it is respectfully submitted that claim 1 is now in proper form and a withdrawal of the 35 U.S.C. §112, second paragraph rejections is respectfully requested.

In the Final Office Action, the drawings are objected for failing to include "Prior Art" legends in FIGs. 1-9 and 12-13. A legend of "Prior Art" has been added to FIGs. 1-9, however it is respectfully submitted that FIGs. 12-13 illustrate results in accordance with the present invention and accordingly, the legend 'Prior Art" is not appropriate. For example, the specification on page 11, lines 19-20 states that "[t]he results obtained with the present solution (called "noHole optimization method") are presented in the table of Fig. 12 ..." Regarding FIG. 13, the specification makes clear on page 10, lines 18-20 that "Fig. 13 is another table giving various VLEC codes for the same source as in Fig. 12 and using both the GAS previously mentioned and the building method according to the invention." Accordingly, it is respectfully submitted that it would not be proper to designate FIGs. 12 and 13 as "Prior Art." Replacement sheets including FIGs. 1-9, having the legend "Prior Art" are enclosed following this amendment. Since replacement sheets have been provided for FIGs. 1-9 and FIGs. 12-13 are proper as submitted, it is respectfully requested that this objection to the drawings be withdrawn.

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The drawings are objected to under 37 C.F.R. 1.84(p)(4) because it is alleged that a same reference character is being utilized to designate different parts. For example, it is alleged that reference character "31" has been used to designate both "KEEP IN W WORDS Cmin" in FIG. 2 and "MAX BITS EXCEEDED?=NO" in FIG. 3. This position is respectfully refuted. It in fact is respectfully submitted that the designation, such as reference character "31" is being utilized to designate the same part in both FIG. 2 and FIG. 3. However, to clarify this in the figures, designations such as those referred to above have been enclosed in a box in the attached replacement figures following this amendment to make clear that each in fact refers to a same designation. As stated in 37 C.F.R. 1.84(p)(4) "[t]he same part of an invention appearing in more than one view of the drawing must always be designated by the same reference character ..." Accordingly, it is respectfully submitted that the drawings are in proper form and an indication to that effect is respectfully requested.

Claims 1 and 2 are rejected under 35 U.S.C. §102(a) as allegedly anticipated by Applicant Admitted Prior Art (AAPA).

The claims have been amended to clarify the distinctions between the prior art and the present patent application as submitted. It is respectfully submitted that the claim 1 as submitted already required that "said building method being such that at most one bit is added at the end of each word of the set W" which necessarily is distinct from the (AAPA) which shows, for example in FIG. 2, that act 24 requires affixing one extra bit to the set W and thereafter, if $|W| = 0$? YES (act 32), another bit is added to the set W.

It is respectfully submitted that the method of Claim 1 is not anticipated or made

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obvious by the teachings of AAPA. For example, AAPA does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis provided) "(3) listing and storing in the set W all possible L_1 – tuples at the distance of d_{min} from the codewords of C, said distance d_{min} for a VLEC code C being the minimum value of all diverging distances between all possible couples of different-length codewords of C, and, in the case where no word is found or the maximum number of bits is reached, reducing a constraint of distance for finding more words and deleting one or more codewords of a last group, otherwise doubling the number of words in W by affixing at the end of all words one extra bit, said storing act therefore replacing the set W by a new one having twice more words than the previous one and the length of each one of these words being $L_1 + 1$;

(4) deleting all the words of the set W that do not satisfy the c_{min} distance with all codewords of C, said distance c_{min} being the minimum converging distance of the code C ;

(5) in the case where no word is found following acts 3 and 4, deleting codewords of the last group" as required by Claim 1, and as substantially required by Claim 3. Accordingly, as previously presented in the claims "said building method being such that at most one bit is added at the end of each word of the set W."

Based on the foregoing, the Applicant respectfully submits that independent Claims 1 and 3 are patentable over AAPA and notice to this effect is earnestly solicited.

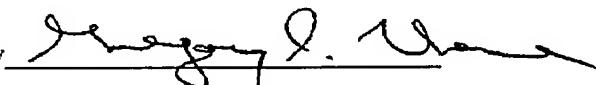
In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks.

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However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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Enclosure: 11 pages replacement drawing sheets

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